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#### REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

#### PENDING CLAIMS

Claims 1-7 and 10-42 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is presently interested. At entry of this paper, claims 1, 3-5, 7, 10-14, 16-18, 20-33, 35, 37, 39, 40 and 43-48 will be pending for further consideration and examination in the application.

#### ALL REJECTIONS UNDER 35 USC '103

All 35 USC '103 rejections are respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Unrelated to any prior art rejection, ones of the rejected claims have now

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been canceled without prejudice or disclaimer, thus rendering this rejection of such claims obsolete at this time. Patentability of remaining ones of the rejected claims are supported by the following remarks from Applicant's foreign representative.

In the Final Office Action, the Examiner has rejected claims 1-3, 7, 41 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Samuels (US 6483937). Then, the Examiner has rejected claims 4-6 and 10-15 under 35 U.S.C. § 103(a) as being unpatentable over Samuels in view of Applicant's alleged Admitted Prior Art. Applicant has clarified the claims as being directed toward Applicant's fifth embodiment in lines 23 of page 53 - lines 23 of page 57 of the specification and as shown in Figs 20-22 and 26 etc.

The independent claims 1, 16 and 22, for example are inventions related to a pattern inspecting apparatus. The characteristics of the present invention comprises (1) an image detection (acquisition) system which detects (acquires) an image signal from the each partial inspection area on the semiconductor wafer; (2) an inspection executing unit which executes an inspection to detect the defect by image-processing the image signal detected (acquired) by the image detection (acquisition) system under the each inspection condition which have been set by the inspection condition setting unit, for each partial inspection area set by the inspection area setting unit; wherein (3) the inspection area setting unit divides the area to be inspected into at least the two partial inspection areas according to layout data, and (4) the inspection setting unit sets the each inspection condition for each partial inspection area so that a false-report rate is a fixed value or less, or detection rate of a specified defect is a fixed value or more.

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In elaborating ones of the points 1-4 further, item (3) "the inspection area setting unit divides the area to be inspected into at least the two partial inspection areas according to layout data." has been described to a lot of parts in for example, Figs. 2-4 etc.

The item (4) where "the inspection setting unit sets the each inspection condition for each partial inspection area so that a false-report rate is a fixed value or less, or detection rate of a specified defect is a fixed value or more." has been described as "(iii) Detection sensitivity is highest within a range that a false-report rate is a fixed value or less." and "(iv) Concerning a plurality of specified defect points, detection sensitivity is lowest within a range that detection rate is a fixed value or more." in lines 14-18 of page 56 of the specification.

Claims 20 and 35 of the present application have been clarified to be directed to an embodiment described as a second embodiment in line 1 of page 29 - lines 13 of page 33 of the specification and as shown in Figs. 5 and 22 etc. More particularly, the independent claims 20 and 35 are inventions related to a defect reviewing apparatus.

With regard to rebuttal concerning the applied reference, Samuels (US 6483937) discloses only that "More particularly, inspection station 54 compares patterns 32, 34, 65, and 68 on mask 61 with sets 42, 44, 75, and 78, respectively, of design data. If any of the above mentioned mismatches exceeds its corresponding mismatch margin, mask 61 is considered defective." in lines 16-34 of column 5.

Applicant respectfully submits that the characteristic composition of the present invention is not disclosed or suggested by Samuels.

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In addition to the foregoing, the following additional remarks from the Undersigned are also submitted in support of traversal of the rejection and patentability of Applicant's claims.

Beyond the above-discussed features/limitations, added dependent claims 44-48 add the features/limitations of: "wherein the inspection condition setting unit automatically adjusts the each inspection condition for each partial inspection area until the false-report rate is a fixed value or less, or the detection rate of a specified defect is a fixed value or more." Samuels and the alleged Admitted Prior Art, taken alone or in combination, do not disclose or suggest such "automatically adjusting" feature, especially not with respect to the recited "false-report rate" or "detection rate"

Regarding the alleged Admitted Prior Art, Applicant respectfully traverses, as set forth under a separate heading ahead.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

#### **SPECIFIC TRAVERSAL OF ALLEGED "ADMITTED PRIOR ART"**

Regarding the alleged "admitted prior art of the instant disclosure", traversal is appropriate. More particularly, Applicant has not made any admissions within the application. Applicant has disclosed several references, but such references are not necessarily prior art. Regarding whether or not such references are prior art under

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U.S. patent law, publication dates and teachings of such references themselves should be consulted by the Examiner to determine whether any such references represent published prior art. Beyond mention of such references, no other discussion of Applicant's specification should be construed as "admitted prior art", and instead, such discussion represents what was known to Applicant at a time of describing the invention, and not necessarily what was known by others in the art. Accordingly, reconsideration and withdrawal of any portions of the rejection based upon "admitted prior art", are respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

#### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed

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limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### CONCLUSION


In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR 1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 520.41089X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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